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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

X CORP.,

Plaintiff,

v.

ROBERT A. BONTA, Attorney
General of California, in his
official capacity,

Defendant.

No. 2:23-cv-01939-WBS-AC

**NOTICE OF MOTION AND MOTION FOR
PRELIMINARY INJUNCTION**

EXTENDED ORAL ARGUMENT REQUESTED

Date: November 13, 2023

Time: 1:30 p.m.

Crtrm: 5

NOTICE OF MOTION AND MOTION TO
THE HONORABLE COURT AND TO ALL PARTIES

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Points and Authorities, the Affidavit of Wifredo Fernandez and the exhibits annexed thereto, the Affidavit of Trust and Safety Team Affiant and the exhibits annexed thereto, the Affidavit of Joel Kurtzberg and the exhibits annexed thereto, and the Affidavit of Ben Elron In Support of X Corp.'s Request to Redact or File Under Seal the Trust and Safety Team Affiant's Identity, on November 13, 2023, at 1:30pm, Plaintiff hereby moves for a preliminary injunction halting enforcement of California Assembly Bill No. 587 ("AB 587"), which is codified in law at Cal. Bus. & Prof. Code §§ 22675-22681, on constitutional and other grounds. As explained in detail in the accompanying memorandum, AB 587 violates the First Amendment to the United States Constitution and Article I, Section 2, of the California Constitution because it compels social media companies like X Corp. to engage in speech against their will, impermissibly interferes with the constitutionally-protected editorial judgments of companies such as X Corp., has both the purpose and likely effect of pressuring companies such as X Corp. to remove, demonetize, or deprioritize constitutionally-protected speech that the State deems undesirable or harmful, does not support a compelling, substantial, or important government interest, and places an unjustified and undue burden on social media companies such as X Corp. AB 587 also directly contravenes, and is preempted by, 47 U.S.C. § 230(c)(2) because it imposes civil liability on social media companies such as X Corp. if they take

1 actions (i) in good faith to restrict access to content, as
2 described in § 230(c)(2), without making the disclosures required
3 by AB 587, or (ii) that, in AG Bonta's view, are contrary to X
4 Corp.'s promulgated content-moderation policies.

5 The abrogation of Plaintiff's First Amendment rights for any
6 time period constitutes *per se* irreparable harm, and where, as
7 here, Plaintiff has not only asserted a colorable First Amendment
8 claim, but one that is likely to succeed on the merits, the balance
9 of equities tips in its favor and an injunction is in the public
10 interest. Accordingly, this Court should preliminarily enjoin
11 Defendant from enforcing AB 587.

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13 DATED: October 6, 2023 /s/ Joel Kurtzberg

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